

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

DOCKET NO.: 2008-0639-PST-E TCEQ ID: RN104250774 CASE NO.: 35749

RESPONDENT NAME: HWY 29 GROCERY, INC. DBA JIFFY MART 3

ORDER TYPE:

<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:

<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: 13420 West State Highway 29, Liberty Hill, Williamson County

TYPE OF OPERATION: Convenience store with retail sales of gasoline

SMALL BUSINESS: ☒ Yes ☐ No

OTHER SIGNIFICANT MATTERS: There is one complaint. The complainant alleged that gas leaked while fueling from the far right dispenser when facing the gas station. There is no record of additional pending enforcement actions regarding this facility.

INTERESTED PARTIES: The complainant has not expressed an interest to protest this matter or speak at agenda. No one other than the ED and the Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired July 27, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Peipey Tang, Litigation Division, MC 175, (512) 239-0654

Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Mr. Rajesh Acharya, Waste Enforcement Section, MC 128, (512) 239-0577

TCEQ Regional Contact: Mr. Barry Kalda, Austin Regional Office, MC R-11, (512) 339-2929

Respondent: Mr. Shaukat Mahesania, President, 13420 West Highway 29, Liberty Hill, Texas, 78642

Respondent's Attorney: Mr. William Thompson, Grissom and Thompson, L.L.P., 609 West 10th Street, Austin, Texas, 78701

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input checked="" type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: January 30, 2008</p> <p>Date of Investigation Relating to this Case: February 21, 2008</p> <p>Date of NOV Relating to this Case: April 8, 2008</p> <p>Background Facts: The EDRP was filed on September 12, 2008. The Respondent filed an answer and the case was referred to SOAH. The Respondent signed the agreed order on May 28, 2009.</p> <p>Current Compliance Status: No outstanding Technical Requirements.</p> <p>PST:</p> <p>1. Failed to inspect and test the cathodic protection system for operability and adequacy of protection at a frequency of at least once every three years. Specifically, the triennial test had not been conducted [30 TEX. ADMIN. CODE § 334.49(c)(4) and TEX. WATER CODE § 26.3475(d)].</p> <p>2. Failed to provide a release detection method capable of detecting a release from any portion of the underground storage tank ("UST") system which contains regulated substances, and failed to test the line leak detectors at least once per year for performance and operational reliability [30 TEX. ADMIN. CODE §§ 334.50(a)(1)(A) and 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a) and 26.3475(c)(1)].</p> <p>3. Failed to conduct effective manual or automatic inventory control procedures for all USTs at the Facility [30 TEX. ADMIN. CODE § 334.48(c)].</p>	<p>Total Assessed: \$8,367</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$492/\$7,875</p> <p>The Respondent paid \$492 of the administrative penalty. The remaining amount of \$7,875 shall be payable in 35 monthly payments of \$225 each.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent implemented the following corrective measures at the Facility:</p> <ol style="list-style-type: none"> 1. Conducted the line leak detector test on February 29, 2008; 2. On March 6, 2008, provided for a release detection method capable of detecting a release from any portion of the UST system which contains regulated substances by conducting effective manual or automatic inventory control procedures and through statistical inventory reconciliation; and 3. Conducted the triennial test for the cathodic protection system on March 11, 2009.



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision March 8, 2008

DATES	Assigned	15-Apr-2008	Screening	16-Apr-2008	EPA Due	
	PCW	1-Aug-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	HWY 29 GROCERY, INC. dba Jiffy Mart 3
Reg. Ent. Ref. No.	RN104250774
Facility/Site Region	11-Austin
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	35749	No. of Violations	3
Docket No.	2008-0639-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Rajesh Acharya
Multi-Media		EC's Team	Enforcement Team 6
Admin. Penalty \$	Limit Minimum \$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 **\$7,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 0% Enhancement Subtotals 2, 3, & 7 **\$0**

Notes: No adjustment due to compliance history.

Culpability 0% Enhancement Subtotal 4 **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction Subtotal 5 **\$0**

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

Total EB Amounts	\$980
Approx. Cost of Compliance	\$3,750

0% Enhancement*
*Capped at the Total EB \$ Amount

Subtotal 6 **\$0**

SUM OF SUBTOTALS 1-7 Final Subtotal **\$7,500**

OTHER FACTORS AS JUSTICE MAY REQUIRE 12% Adjustment **\$867**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with Violation Nos. 1 and 2.

Final Penalty Amount **\$8,367**

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty **\$8,367**

DEFERRAL 0% Reduction Adjustment **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY **\$8,367**

Screening Date 16-Apr-2008

Docket No. 2008-0639-PST-E

PCW

Respondent HWY 29 GROCERY, INC. dba Jiffy Mart 3

Policy Revision 2 (September 2002)

Case ID No. 35749

PCW Revision March 8, 2008

Reg. Ent. Reference No. RN104250774

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

**Compliance
History
Notes**

No adjustment due to compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 16-Apr-2008		Docket No. 2008-0639-PST-E		PCW
Respondent HWY 29 GROCERY, INC. dba Jiffy Mart 3		<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 35749		<i>PCW Revision March 8, 2008</i>		
Reg. Ent. Reference No. RN104250774				
Media [Statute] Petroleum Storage Tank				
Enf. Coordinator Rajesh Acharya				
Violation Number		<div style="border: 1px solid black; padding: 2px;">1</div>		
Rule Cite(s)		<div style="border: 1px solid black; padding: 2px;">30 Tex. Admin. Code § 334.49(c)(4) and Tex. Water Code § 26.3475(d)</div>		
Violation Description		<div style="border: 1px solid black; padding: 2px;">Failed to inspect and test the cathodic protection system for operability and adequacy of protection at a frequency of at least once every three years. Specifically, the triennial test had not been conducted.</div>		
Base Penalty				<div style="border: 1px solid black; padding: 2px;">\$10,000</div>

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Percent <div style="border: 1px solid black; padding: 2px;">25%</div>
Potential	x	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>		

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Percent <div style="border: 1px solid black; padding: 2px;">0%</div>

Matrix Notes	Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.
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Adjustment

\$7,500

\$2,500

Violation Events

Number of Violation Events <div style="border: 1px solid black; padding: 2px;">1</div>		<div style="border: 1px solid black; padding: 2px;">1095</div> Number of violation days
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<small>mark only one with an x</small>	daily	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Violation Base Penalty <div style="border: 1px solid black; padding: 2px;">\$2,500</div>
	monthly	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	
	quarterly	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	
	semiannual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	
	annual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	
	single event	x	

One single event is recommended for the three-year period preceding the February 21, 2008 investigation.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <div style="border: 1px solid black; padding: 2px;">\$538</div>	Violation Final Penalty Total <div style="border: 1px solid black; padding: 2px;">\$2,789</div>
This violation Final Assessed Penalty (adjusted for limits) <div style="border: 1px solid black; padding: 2px;">\$2,789</div>	

Economic Benefit Worksheet

Respondent HWY 29 GROCERY, INC. dba Jiffy Mart 3

Case ID No. 35749

Reg. Ent. Reference No. RN104250774

Media Petroleum Storage Tank

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$450	21-Feb-2005	21-Feb-2008	3.9	\$88	\$450	\$538
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Actual cost for completing the triennial test per invoice submitted by the Respondent. Date Required is three years prior to the investigation date. Final Date is the investigation date.

Approx. Cost of Compliance

\$450

TOTAL

\$538

Screening Date 16-Apr-2008		Docket No. 2008-0639-PST-E		PCW																				
Respondent HWY 29 GROCERY, INC. dba Jiffy Mart 3		<i>Policy Revision 2 (September 2002)</i>																						
Case ID No. 35749		<i>PCW Revision March 8, 2008</i>																						
Reg. Ent. Reference No. RN104250774																								
Media [Statute] Petroleum Storage Tank																								
Enf. Coordinator Rajesh Acharya																								
Violation Number 2																								
Rule Cite(s)		30 Tex. Admin. Code § 334.50(a)(1)(A), (b)(2)(A)(i)(III) and Tex. Water Code § 26.3475(a) and (c)(1)																						
Violation Description		Failed to provide release detection method capable of detecting a release from any portion of the UST system which contained regulated substances. Also, failed to test the line leak detectors at least once per year for performance and operational reliability.																						
Base Penalty				\$10,000																				
>> Environmental, Property and Human Health Matrix																								
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Harm</td> </tr> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td>Release</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Actual</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Potential</td> <td style="text-align: center;">x</td> <td></td> <td></td> </tr> </table>					Harm				Major	Moderate	Minor	Release				Actual				Potential	x		
		Harm																						
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	Major	Moderate	Minor																					
Falsification																								
Matrix Notes	Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.																							
Adjustment				\$7,500																				
				\$2,500																				
Violation Events																								
Number of Violation Events		1	55	Number of violation days																				
mark only one with an x	daily																							
	monthly																							
	quarterly	x																						
	semiannual																							
	annual																							
	single event																							
Violation Base Penalty				\$2,500																				
One quarterly event is recommended based on documentation of the violation during the February 21, 2008 investigation to the April 16, 2008 screening date.																								
Economic Benefit (EB) for this violation			Statutory Limit Test																					
Estimated EB Amount		\$385	Violation Final Penalty Total																					
			\$2,789																					
This violation Final Assessed Penalty (adjusted for limits)				\$2,789																				

Economic Benefit Worksheet**Respondent** HWY 29 GROCERY, INC. dba Jiffy Mart 3**Case ID No.** 35749**Reg. Ent. Reference No.** RN104250774**Media** Petroleum Storage Tank**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,500	21-Feb-2008	21-Nov-2008	0.8	\$56	n/a	\$56

Notes for DELAYED costs

Estimated cost to provide release detection for the USTs. Date Required is the date of investigation. Final Date is the estimated date of compliance.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$300	21-Feb-2007	29-Feb-2008	1.9	\$29	\$300	\$329
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Actual cost to conduct line leak detector tests per invoice submitted by the Respondent. Date Required is one year prior to the investigation. Final Date is the compliance date.

Approx. Cost of Compliance

\$1,800

TOTAL

\$385

Screening Date 16-Apr-2008		Docket No. 2008-0639-PST-E		PCW	
Respondent HWY 29 GROCERY, INC. dba Jiffy Mart 3		<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 35749		<small>PCW Revision March 8, 2008</small>			
Reg. Ent. Reference No. RN104250774					
Media [Statute] Petroleum Storage Tank					
Enf. Coordinator Rajesh Acharya					
Violation Number 3					
Rule Cite(s)		30 Tex. Admin. Code § 334.48(c)			
Violation Description		Failed to conduct effective manual or automatic inventory control procedures for all USTs at the Facility.			
		Base Penalty		\$10,000	

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				
	Potential	x			Percent 25%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 0%

Matrix Notes	Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.
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	Adjustment \$7,500
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Violation Events

Number of Violation Events	1	55	Number of violation days
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	daily			
<small>mark only one with an x</small>	monthly			
	quarterly	x		
	semiannual			
	annual			
	single event			

	Violation Base Penalty \$2,500
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One quarterly event is recommended based on documentation of the violation during the February 21, 2008 investigation to the April 16, 2008 screening date.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount \$56	Violation Final Penalty Total \$2,789
This violation Final Assessed Penalty (adjusted for limits) \$2,789	

Economic Benefit Worksheet

Respondent HWY 29 GROCERY, INC. dba Jiffy Mart 3

Case ID No. 35749

Reg. Ent. Reference No. RN104250774

Media Petroleum Storage Tank

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,500	21-Feb-2008	21-Nov-2008	0.8	\$56	n/a	\$56

Notes for DELAYED costs

Estimated cost to conduct proper inventory control procedures. Date Required is the date of investigation. Final Date is the estimated date of compliance.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$56

Compliance History

Customer/Respondent/Owner-Operator:	CN602817272	HWY 29 GROCERY, INC.	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN104250774	Jiffy Mart 3	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	52774	
Location:	13420 W STATE HIGHWAY 29, LIBERTY HILL, TX, 78642	Rating Date: 9/1/2007	Repeat Violator: NO	
TCEQ Region:	REGION 11 - AUSTIN			
Date Compliance History Prepared:	April 16, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	April 16, 2003 to April 16, 2008			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Rajesh Acharya	Phone:	(512) 239-0577	

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? HWY 29 GROCERY, INC.
4. If Yes, who was/were the prior owner(s)? M K Family Limited Partnership
5. When did the change(s) in ownership occur? 04/08/2005

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF
AN ENFORCEMENT ACTION
AGAINST HWY 29 GROCERY, INC.
DBA JIFFY MART 3;
RN104250774**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2008-0639-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding HWY 29 Grocery, Inc. dba Jiffy Mart 3 ("HWY 29 Grocery") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and HWY 29 Grocery, represented by Mr. William Thompson of Grissom and Thompson, L.L.P., appear before the Commission and together stipulate that:

1. HWY 29 Grocery owns and operates a convenience store with retail sales of gasoline located at 13420 West State Highway 29, Liberty Hill, Williamson County, Texas ("the Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and HWY 29 Grocery agree that the Commission has jurisdiction to enter this Agreed Order, and that HWY 29 Grocery is subject to the Commission's jurisdiction.
4. HWY 29 Grocery received notice of the violations alleged in Section II ("Allegations") on or about April 13, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by HWY 29 Grocery of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of eight thousand three hundred sixty-seven dollars (\$8,367.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). HWY 29 Grocery paid four hundred ninety-two dollars (\$492.00) of the administrative penalty. The remaining amount of seven thousand eight hundred seventy-five dollars (\$7,875.00) of the administrative penalty shall be payable in 35 monthly payments of two hundred twenty-five dollars (\$225.00) each, pursuant to 30 TEX. ADMIN. CODE § 70.9(a). The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If HWY 29 Grocery fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, HWY 29 Grocery's failure to meet the payment schedule of this Agreed Order constitutes the failure by HWY 29 Grocery to timely and satisfactorily comply with all of the terms of this Agreed Order.
7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and HWY 29 Grocery have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that HWY 29 Grocery implemented the following corrective measures at the Facility in response to this enforcement action:
 - a. On February 29, 2008, HWY 29 Grocery conducted the line leak detector test;
 - b. On March 6, 2008, HWY 29 Grocery provided for a release detection method capable of detecting a release from any portion of the UST system which contains regulated substances by conducting effective manual or automatic inventory control procedures and through statistical inventory reconciliation; and
 - c. On March 11, 2009, HWY 29 Grocery conducted the triennial test for the cathodic protection system.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that HWY 29 Grocery has not complied with one or more of the terms or conditions in this Agreed Order.

11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

1. During an inspection conducted on February 21, 2008, a TCEQ Austin Regional Office investigator documented that HWY 29 Grocery violated:
 - a. 30 TEX. ADMIN. CODE § 334.49(c)(4) and TEX. WATER CODE § 26.3475(d) by failing to inspect and test the cathodic protection system for operability and adequacy of protection at a frequency of at least once every three years. Specifically, the triennial test had not been conducted.
 - b. 30 TEX. ADMIN. CODE §§ 334.50(a)(1)(A) and 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a) and 26.3475(c)(1) by failing to provide a release detection method capable of detecting a release from any portion of the UST system which contains regulated substances. Also, by failing to test the line leak detectors at least once per year for performance and operational reliability.
 - c. 30 TEX. ADMIN. CODE § 334.48(c) by failing to conduct effective manual or automatic inventory control procedures for all USTs at the Facility.

III. DENIALS

HWY 29 Grocery generally denies each allegation in Section II ("Allegations").

IV. ORDER

1. It is, therefore, ordered by the TCEQ that HWY 29 Grocery pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and HWY 29 Grocery's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: HWY 29 Grocery, Inc. dba Jiffy Mart 3, Docket No. 2008-0639-PST-E" to:

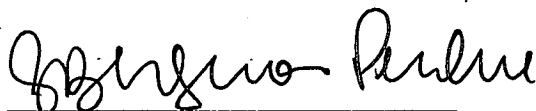
Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon HWY 29 Grocery. HWY 29 Grocery is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against HWY 29 Grocery in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to HWY 29 Grocery, or three days after the date on which the Commission mails notice of the Order to HWY 29 Grocery, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

7/21/2009

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on HWY 29 Grocery's compliance history;
- Greater scrutiny of any permit applications submitted by HWY 29 Grocery;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against HWY 29 Grocery;
- Automatic referral to the Attorney General's Office of any future enforcement actions against HWY 29 Grocery; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

5/28/09

Date

PARVEZ BADARPURA

Name (Printed or typed)

President

Title

Authorized representative of

HWY 29 Grocery, Inc. dba Jiffy Mart 3